

B' C₈)cycloalkyloxy; wherein said (C₃-C₈)cycloalkyl and (C₁-C₁₀)heterocyclyl moieties may also optionally be substituted by oxo; wherein said (C₁-C₁₀)heteroaryl and (C₁-C₁₀)heterocyclyl moieties may optionally be substituted on any ring nitrogen atom able to support an additional substituent by one to two substituents per ring independently selected from the group consisting of (C₁-C₄)alkyl and (C₁-C₄)alkyl-(C=O)-;

or R²¹ and R²² may optionally be taken together with the nitrogen, the oxygen or the sulfur to which they are attached to form a 3 to 8-membered heterocyclic ring; or a pharmaceutically acceptable salt thereof.

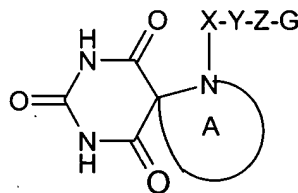
MARKED-UP VERSION OF CLAIM AMENDMENTS – DO NOT ENTER

In the Claims:

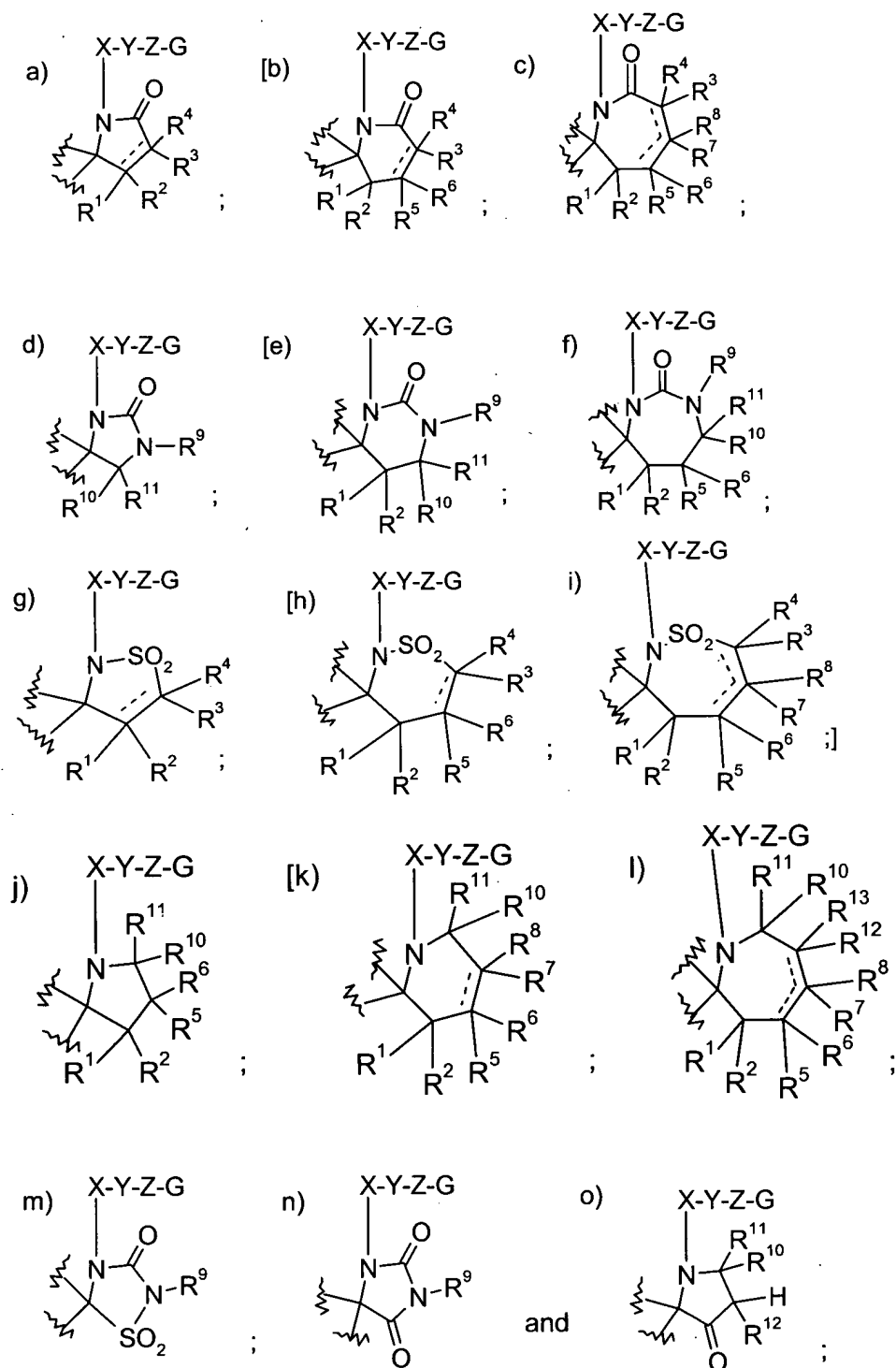
Please cancel claims 3, 4, 6, 7, 9, 10, 12, 13, and 43-45, without prejudice.

Please amend claim 1 as follows:

1. (Amended) A compound of the formula:



wherein said "A" is a 5[-7] membered heterocyclic ring selected from the group consisting of:



wherein each of $R^1, R^2, R^3, R^4, R^5, R^6, R^7, R^8, R^9, R^{10}, R^{11}, R^{12}$ and R^{13} is independently selected from the group consisting of hydrogen, (C_1-C_4) alkyl, (C_1-C_4) alkenyl, (C_1-C_4) alkynyl, (C_6-C_{10}) aryl, (C_1-C_{10}) heteroaryl, (C_3-C_8) cycloalkyl and (C_1-C_{10}) heterocyclyl; wherein each of said (C_1-C_4) alkyl, (C_6-C_{10}) aryl, (C_1-C_{10}) heteroaryl, (C_3-C_8) cycloalkyl and (C_1-C_{10}) heterocyclyl may be optionally substituted on any of the ring carbon atoms capable of forming an additional bond with

1-3 substituents per ring independently selected from halo, (C₁-C₄)alkyl, (C₁-C₄)alkoxy, -CN, -OH and -NH₂;

X is (C₆-C₁₀)aryl or (C₁-C₁₀)heteroaryl;

Y is selected from the group consisting of a bond, oxygen, sulfur, >C=O, >SO₂, >S=O, -CH₂-, -CH₂O-, -O(CH₂)_n-, -CH₂S-, -S(CH₂)_n-, -CH₂SO-, -CH₂SO₂-, -SO(CH₂)_n-, -SO₂(CH₂)_n-, -NR¹⁴-, -NR¹⁴(CH₂)_n-, -CH₂[N(R¹⁴)]-, -CH₂(CH₂)_n-, -CH=CH-, -C≡C-, -[N(R¹⁴)]-SO₂- and -SO₂[N(R¹⁴)]-;

n is an integer from one to four;

R¹⁴ is hydrogen or (C₁-C₄)alkyl;

Z is selected from the group consisting of (C₆-C₁₀)aryl, (C₃-C₈)cycloalkyl, (C₁-C₁₀)heterocyclyl and (C₁-C₁₀)heteroaryl; wherein one or two carbon-carbon single bonds of said (C₃-C₈)cycloalkyl or (C₁-C₁₀)heterocyclyl may optionally be replaced by carbon-carbon double bonds;

wherein each of said X or Z may be independently optionally substituted on any of the ring carbon atoms capable of forming an additional bond by one or two substituents per ring independently selected from F, Cl, Br, CN, OH, (C₁-C₄)alkyl, (C₁-C₄)perfluoroalkyl, (C₁-C₄)perfluoroalkoxy, (C₁-C₄)alkoxy and (C₃-C₈)cycloalkyloxy;

G is R¹⁵-(CR¹⁶R¹⁷)_p-; wherein G is a substituent on any ring carbon atom of Z capable of forming an additional bond and is oriented at a position other than alpha to the point of attachment of the Z ring to Y;

p is an integer from 0 to 4;

R¹⁵ is independently selected from the group consisting of halo, -CN, -NO₂, OH, (C₁-C₄)alkenyl, (C₁-C₄)alkynyl, (C₁-C₄)perfluoroalkyl, perfluoro(C₁-C₄)alkoxy, R¹⁸-, R¹⁸-O-, R¹⁸-(C₁-C₄)alkyl-O-, R¹⁸-(C=O)-, R¹⁸-(C=O)-O-, R¹⁸-O-(C=O)-, R¹⁸-S-, R²²-(S=O)-, R¹⁸-(SO₂)-, R²²-(SO₂)-(NR²¹)-, R¹⁹-(C=O)-(NR²¹)-, R²²-O-(C=O)-(NR²¹)-, (R¹⁹R²⁰)N-, (R¹⁹R²⁰)N-(SO₂)-, (R¹⁹R²⁰)N-(C=O)-, (R¹⁹R²⁰)N-(C=O)-(NR²¹)- and (R¹⁹R²⁰)N-(C=O)-O-;

each of R¹⁶ and R¹⁷ are independently selected from hydrogen and (C₁-C₄)alkyl;

or R¹⁶ and R¹⁷ may optionally be taken together with the carbon to which they are attached to form a 5 to 10-membered carbocyclic ring;

R¹⁸, R¹⁹, R²⁰ and R²¹ are independently selected from the group consisting of hydrogen, (C₁-C₄)alkyl, (C₆-C₁₀)aryl, (C₃-C₈)cycloalkyl, (C₁-C₁₀)heteroaryl and (C₁-C₁₀)heterocyclyl; wherein said (C₆-C₁₀)aryl, (C₃-C₈)cycloalkyl, (C₁-C₁₀)heteroaryl and (C₁-C₁₀)heterocyclyl moieties may be optionally substituted on any of the ring carbon atoms capable of forming an additional bond by one to three substituents per ring independently selected from F, Cl, Br, CN, OH, (C₁-C₄)alkyl, (C₁-C₄)perfluoroalkyl, (C₁-C₄)perfluoroalkoxy, (C₁-C₄)alkoxy, amino, (C₁-C₄)alkyl-NH-, [(C₁-C₄)alkyl]₂-N- and (C₃-C₈)cycloalkyloxy; wherein said (C₃-C₈)cycloalkyl and (C₁-C₁₀)heterocyclyl moieties may also optionally be substituted by oxo; wherein said (C₁-C₁₀)heteroaryl and (C₁-

C₁₀)heterocyclyl moieties may optionally be substituted on any ring nitrogen atom able to support an additional substituent by one to two substituents per ring independently selected from the group consisting of (C₁-C₄)alkyl and (C₁-C₄)alkyl-(C=O)-;

or R¹⁹ and R²⁰ may optionally be taken together with the nitrogen to which they are attached to form a 3 to 8-membered heterocyclic ring;

or R¹⁹ and R²¹ may optionally be taken together with the nitrogen, the carbon or the oxygen to which they are attached to form a 3 to 8-membered heterocyclic ring;

R²² is selected from the group consisting of (C₁-C₄)alkyl, (C₆-C₁₀)aryl, (C₃-C₈)cycloalkyl, (C₁-C₁₀)heteroaryl and (C₁-C₁₀)heterocyclyl; wherein said (C₆-C₁₀)aryl, (C₃-C₈)cycloalkyl, (C₁-C₁₀)heteroaryl and (C₁-C₁₀)heterocyclyl moieties may be optionally substituted on any of the ring carbon atoms capable of forming an additional bond by one to three substituents per ring independently selected from F, Cl, Br, CN, OH, (C₁-C₄)alkyl, (C₁-C₄)perfluoroalkyl, (C₁-C₄)perfluoroalkoxy, (C₁-C₄)alkoxy, amino, (C₁-C₄)alkyl-NH-, [(C₁-C₄)alkyl]₂-N- and (C₃-C₈)cycloalkyloxy; wherein said (C₃-C₈)cycloalkyl and (C₁-C₁₀)heterocyclyl moieties may also optionally be substituted by oxo; wherein said (C₁-C₁₀)heteroaryl and (C₁-C₁₀)heterocyclyl moieties may optionally be substituted on any ring nitrogen atom able to support an additional substituent by one to two substituents per ring independently selected from the group consisting of (C₁-C₄)alkyl and (C₁-C₄)alkyl-(C=O)-;

or R²¹ and R²² may optionally be taken together with the nitrogen, the oxygen or the sulfur to which they are attached to form a 3 to 8-membered heterocyclic ring; or a pharmaceutically acceptable salt thereof.

REMARKS

Reconsideration and allowance of this application are respectfully requested.

Claims 1-45 are pending in this application. By this amendment, claims 3, 4, 6, 7, 9, 10, 12, 13, 43-45 have been canceled, without prejudice. The amendments to the claims are made in the interest of advancing prosecution of this application, such that the claims are now directed to the elected subject matter, discussed below. Thus, claims 1, 2, 5, 8, 11, and 14-42 remain pending and at issue.

The Examiner has identified the following patentably distinct inventions (Groups I-IV):

- I. Claims 1-42, drawn to compounds and compositions wherein variable A is subspecies a, b, d, g, j, m, n, and o, i.e., five-membered rings.
- II. Claims 1-42, drawn to compounds and compositions wherein variable A is subspecies e, h, and k, i.e., six-membered rings.
- III. Claims 1-42, drawn to compounds and compositions wherein variable A is subspecies c, f, and l, i.e., seven-membered rings.
- IV. Claims 43-45, drawn to methods of use.

First, Applicants note that there appears to be a mistake in the groups identified above, as set forth in the official action. Group I is said to be directed to those compounds of claims 1-42 wherein variable A is a five-membered ring. The examiner has identified subspecies a, b, d, g, j, m, n, and o as those in which variable A is a five-membered ring. However, upon closer examination of subspecies b, it will be evident that subspecies b does not contain a five-membered ring in variable A. Thus, the correct subspecies for Group I is a, d, g, j, m, n, and o.

With this correction in mind, Applicants provisionally elect, with traverse, the claims of Group (I), drawn to the compounds and compositions wherein variable A is subspecies a, d, g, j, m, n, and o, i.e., five-membered rings.

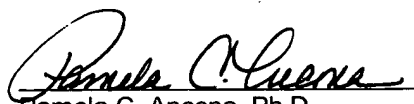
However, Applicants traverse the Examiner's restriction on the following grounds. An Applicant for a patent has the right to define what he regards as his invention, so long as his definition is distinct, as required by the second paragraph of 35 U.S.C. 112, and supported by an enabling disclosure, as required by the first paragraph of 35 U.S.C. 112. In Re Harnish, 206 U.S.P.Q. 300, 305 (CCPA 1980). He also has the right to have each claim examined on the merits. In Re Weber, Soder and Boksay, 138 U.S.P.Q. 328, 331-32 (CCPA 1978). Restriction of the subject matter of a single claim in a patent application is therefore impermissible because it denies the Applicant his right to have the restricted claim examined on the merits. Id. at 331. As the court stated in Weber, "[i]f ... a single claim is required to be divided up and presented in several applications, that claim would never be considered on its merits." Id.

In view of the above, Applicants submit that the restriction requirement is improper and respectfully request that the Examiner permit claims 1-45 to be prosecuted in the same application.

Respectfully submitted,

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